

BOARD OF APPEALS CASE NO. 4992

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BEFORE THE

APPLICANT: Value Electric, Inc.

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ZONING HEARING EXAMINER

REQUEST: Special Exception to permit
commercial vehicle & equipment storage
and construction service and supplies in
the AG District; 1357 Macton Road, Street

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 3/1/00 & 3/8/00

HEARING DATE: April 5, 2000

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Record: 3/3/00 & 3/10/00

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Value Electric, Inc., is requesting two special exceptions and a variance in an Agricultural District as follows:

1. To permit a commercial vehicle and equipment storage pursuant to Section 267-53(D)(1) of the Harford County Code;
2. To allow construction services and suppliers pursuant to Section 267-53(H)(1) of the Code; and,
3. To permit the above uses to be conducted within the 40 foot side yard setback (18 feet is proposed) required by Section 267-34(C), Table II of the Code.

The property is located at 1357 Macton Road, Street, in the Fifth Election District. The parcel is more specifically identified as Parcel 245, in Grid 1F, on Tax Map 18. The property contains approximately 2.5 acres, all of which is zoned AG Agricultural. The owners of the property are Harold L. and Dawn S. Dunaway.

Mr. Harold Dunaway appeared and testified that he is the owner and president of Value Electric Inc., a family owned and operated business that specializes in light commercial electrical services and supplies. Mr. Dunaway has conducted the business from his home at this location for the past 21 years. He has fourteen employees, most of whom are relatives, including his brother, his wife and his sister-in-law. The hours of operation are 7:30 a.m. to 4:00 p.m., Monday through Friday, with occasional Saturday hours. Mr. and Mrs. Dunaway reside in the home on the property and the office for the business is located in the basement.

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Mr. Dunaway described the daily business activity which occurs on the property as follows: Employees begin to arrive on the property between 7:15 and 7:40 a.m. Commercial vans are loaded with the equipment needed for the day and they depart for their service calls between 8 and 8:15 a.m. With the exception of accounting and paperwork which is conducted inside the home office by Mrs. Dunaway and a sister-in-law, there is usually no further business activity on the premises until the employees return the vans between 4:30 and 5:00 p.m.

According to Mr. Dunaway, the commercial equipment which is located or stored on the property includes several of the three-quarter ton commercial vans referenced above, each lettered with the name of the company. The vehicles are normally parked behind the house, in front of the garage, out of view of the roadway. There are no repairs or maintenance performed on the vans on site. There is a one-story garage with two 26 by 28 foot doors located behind the house. The garage was built in 1984 and sits on a permanent foundation. Mr. Dunaway stated that he uses one-half of the garage for his personal property, including a tractor and four-wheeler recreational vehicles, while the other half is used for storage of electrical equipment for the business, primarily wiring and boxes of small parts. There is no equipment stored outdoors, with the exception of the company vans which are parked next to the garage overnight. There is no other business activity conducted in the garage and there are no signs located on the property. It is Mr. Dunaway's testimony that he would not be able to use the garage if he is not granted a variance to allow the garage to remain within the required 40 foot side yard setback. There is no room to move the garage outside of the setback because of the existence of a pool and decking to the left of the front of the garage.

Mr. Dunaway testified that he did not believe there would be any negative impact to adjoining properties from the business or the location of the garage because there are no dwellings which can be seen from the side of his property due to the topography, the existence of a border of tall pine trees around the one side and back of the property, and a sizeable farm adjacent to the property on the right. Denial of the requests would cause Mr. Dunaway significant hardship because he would no longer be able to operate his long-standing business as he has done for the past 21 years.

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Mr. Louis R. Geczy, 1355 Macton Road, appeared and testified that he has lived next door to the Dunaways, on the “garage” side of the property, for the past 24 years. He has no objection to the Applicant’s request, and stated that the Dunaways have always been good neighbors. He has never been disturbed by the operation of the business and indicated that, even living next door, he hardly is aware there is a business being conducted on the property. The vans are quiet and he has experienced no adverse impact as a result of the business operations nor from the location of the garage within the required setback. Mr. Geczy was aware that the Department of Planning and Zoning had recommended that trees be planted on the side of the property which adjoins his farm as a condition of approval of the requests, but it was Mr. Geczy’s testimony that he does not believe that the trees are needed. He grows Christmas trees on his farm near the subject property and believes that they provide an adequate screening between his home and the Applicant’s business activities. Mr. Geczy’s wife, Louise Geczy, and 4 other neighbors also appeared in support of the Applicant’s requests, and they simply indicated they agreed with the testimony of Mr. Geczy.

Mr. Denis Canavan, 112 W. Gordon Street, Bel Air, appeared and was qualified as an expert in land use planning and zoning. Mr. Canavan personally visited the subject property and testified that it is his opinion that the Applicant’s business constitutes construction services and is compatible with the uses which are permitted as of right in the AG District. He is in agreement with the analysis conducted by the Department of Planning and Zoning as outlined in the Staff Report. It was Mr. Canavan’s testimony that the property is unique because of the topographical conditions, namely the rising elevation which ascends up the Applicant’s driveway, crests, and then descends towards the pool in the back, which is to the east of the garage. From the roadway, one can only see landscaping. The home, garage, parking areas, pool and shed are all beyond the crest of the property and cannot be seen from the street.

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Mr. Canavan testified that there is extensive landscaping on the property, most of which is over 20 years old, and this greatly adds to the screening effect of the property as a whole. According to Mr. Canavan, denial of the Applicant's requests would result in practical difficulty and hardship: the business equipment could not be stored in the home because it does not meet the required minimum use setback. It is Mr. Canavan's opinion that the Applicant can meet all of the other guidelines, standards and limitations required by the Code.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified that the Department recommends approval of the Applicant's requests, with certain conditions. According to Mr. McClune, the Applicant's two requests for special exceptions can meet all the requirements, as well as the guidelines, limitations and standards as set forth in the Harford County Code, including those enumerated in Section 267-9(I). As to the Applicant's request for a variance, Mr. McClune testified that the property does contain unique features and circumstances, and there would not appear to be any adverse impacts or impairment of the public interest or the Code if the variance is granted. The Department would agree to drop the condition that additional trees be planted, based upon the testimony of the adjoining neighbor, Mr. Geczy. However, the Department does continue to recommend that approval be subject to two conditions outlined in the Staff Report, namely the retention of the existing screening and buffer around the parking and storage area and the submission of a detailed site plan for review by the Development Advisory Committee.

No witnesses appeared in opposition to the requests.

CONCLUSION:

The Applicant is seeking approval for two special exceptions under the provisions of the Harford County Code: 1) to allow for storage of commercial vehicles and equipment pursuant to Section 267-53(D)(1); 2) to allow the operation of a construction services and suppliers business pursuant to Section 267-53(H)(1), both in an Agricultural District. The Applicant is also seeking a variance from Section 267-34(C), Table II, of the Code to permit these uses to be conducted within the required forty (40) foot side yard setback in an AG District. The existing setback is currently 18 feet.

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Section 267-53(D)(1) provides:

“Motor vehicle and related services.

- (1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provided that:**
 - (a) The vehicles and equipment are stored entirely within an enclosed building or are fully screened from view of adjacent residential lots and public roads.**
 - (b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.**
 - (c) A minimum parcel area of two (2) acres shall be provided.”**

Section 267-53(H)(1) of the Code states:

“Services.

- (1) Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to a residential lot or visible from a public road.”**

The uncontradicted evidence offered by the Applicant and other lay and expert witnesses demonstrates that the subject property is located in an AG zoned district, with the dwelling, garage, parking and storage areas situated far back on the property and in such a manner that they are effectively out of view of the roadway and adjoining properties. The business activities and storage of the equipment are also effectively screened by significant landscaping and mature trees planted around the property. The operation of the business does not appear to interfere in any way with the residential enjoyment of the property by either the property owners or adjoining neighbors, and there does not appear to be any negative or adverse impacts to the neighborhood as a result of the Applicant's business activities. The evidence is clear that the conduct of this business is compatible with the residential and other uses in the AG zone.

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The evidence also demonstrated that the proposed requests to store commercial vehicles and equipment and operate the electrical service and supply business on the property will not adversely affect the public health, safety and general welfare, nor will it result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. In addition, there was no evidence to suggest that these activities would have any greater adverse effect at this location than they would if they were located anywhere else within the AG zone. To the contrary, the subject property seems particularly well-suited to the conduct of this business with minimal impact or effect upon the surrounding properties because of the extensive landscaping, the topography and the placement of the improvements on the site. The evidence also supports the granting of the requesting variance from the required setback for the same reasons: the topography and landscaping are unique features; there would be practical difficulty and hardship for the Applicant if the variance were denied; and, there do not appear to be any adverse impacts or substantial detriment to the adjoining properties resulting from the existing setback.

Therefore, it is the recommendation of the Hearing Examiner that the requested special exceptions and variance be approved, subject to the following conditions:

1. The Applicant shall submit a detailed site plan for review and approval through the Development Advisory Committee;
2. There shall be no outside storage of material and equipment used in the business other than the vehicles.
3. Approval is granted solely to the Applicant and for the Applicant's electrical services and supply business only. If the property or the business should be sold or terminated, approval shall be withdrawn.
4. Applicant shall maintain the existing landscaping and screening around the property. In the event that the landscaping and/or screening of the property changes or is removed (e.g., if the neighboring trees are removed), the Applicant shall plant additional trees and landscaping to effectively screen the parking areas and the garage from the adjoining property.

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5. The Applicant shall obtain or retain any applicable permits and inspections.

Date

April 26, 2000

Valerie H. Twanmoh

Valerie H. Twanmoh

Zoning Hearing Examiner